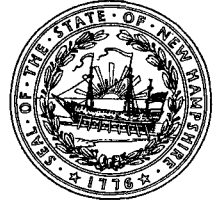




State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2147 FAX (603) 271-6588



Thomas and Christine Fraser
PO Box 683
West Ossipee, NH 03890-0683

ADMINISTRATIVE ORDER
No. WD 05-019

Re: Wetlands File #2004-2594
6 Depot Square Road, Ossipee

June 27, 2005

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division to Thomas and Christine Fraser pursuant to RSA 482-A:6. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH.
2. Thomas and Christine Fraser are individuals having a mailing address of PO Box 683, West Ossipee, NH 03890.

C. STATEMENTS OF FACTS AND LAW

1. Pursuant to RSA 482-A, the Department of Environmental Services regulates dredging, filling, and construction in or on any bank, flat, marsh, wetland or swamp in and adjacent to any waters of the state. Pursuant to RSA 482-A:11, I, the Commissioner of DES has adopted Wt 100 *et seq.* to implement this program.
2. RSA 482-A:3, I states that "no person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without permit from [DES]."
3. Thomas and Christine Fraser are the owners of land located on 6 Depot Square Road, more particularly described on Town of Ossipee Tax Map 26 as Lot 28 ("the Property").
4. On October 24, 2004, DES received a complaint from the Ossipee Conservation Commission alleging that fill had been placed in wetlands on the Property.
5. By letter dated November 3, 2004, DES notified Thomas and Christine Fraser of the complaint, requested that they refrain from further work, and respond to the allegation within 20 days of the date of the letter.

6. DES records indicate that no response has been received to date.
7. On May 19, 2005, DES personnel left a voice mail message at the Fraser residence informing them that DES would be conducting a field inspection, and to call DES if they wanted to be present at the field inspection.
8. DES records indicate that no response was received prior to the inspection.
9. On May 25, 2005, DES personnel conducted a field inspection of the Property and observed or learned the following:
 - a. Approximately 5,000 square feet of fill had been placed in a jurisdictional wetland. The wetland was a vernal pool; and
 - b. DES personnel spoke with a person who identified himself as Ryan Fraser, son of the property owner, Thomas Fraser. DES personnel learned that Thomas and Christine Fraser were away on vacation, and would return on May 31, 2005. A DES staff member left their business card with Ryan Fraser and requested that Thomas or Christine Fraser call DES upon their return.
10. On June 9, 2005, Thomas Fraser contacted DES by telephone as requested. Mr. Fraser stated that he did not think the area was a wetland because it dried up in the summer, and that he would continue to fill it.
11. A review of DES records show that no permit was issued under RSA 482-A:3 to Thomas and Christine Fraser for the fill observed on the Property.

D. DETERMINATION OF VIOLATIONS

1. Thomas and Christine Fraser have violated RSA 482-A:3, I by placing approximately 5,000 square feet of fill in a jurisdictional wetland without a permit from DES.

E. ORDER

Based on the above findings, DES hereby orders Thomas and Christine Fraser as follows:

1. Immediately cease from further filling in any wetlands.
2. By July 15, 2005, retain a qualified environmental consultant to prepare a restoration plan for DES review and approval.
3. The restoration plan shall include the following:
 - a. A plan with dimensions, drawn to scale, showing:
 - i. Existing conditions; and
 - ii. Proposed conditions once restoration is completed;

- b. A detailed description of the proposed means of erosion and sediment controls and stabilization of the restoration area; and
 - c. A description of the proposed restoration sequence and methods for accomplishing the restoration, and time frame for completion.
4. By August 15, 2005, submit the restoration plan to DES.
5. By October 15, 2005, implement the restoration plan only after receiving written approval and as conditioned by DES.
6. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Linda Magoon
DES Water Division
P.O. Box 95
Concord, NH 03302-0095
Fax: (603) 271-6588

F. APPEAL

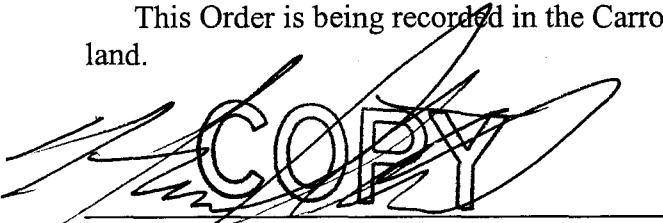
Any person aggrieved by this Order may request that DES reconsider the Order within 20 days of the date of the Order. The request for reconsideration must describe in detail each ground for the request. DES may grant a rehearing if, in its opinion, good cause is demonstrated by the request. Any party not satisfied with the decision on reconsideration may appeal to the Wetlands Council. Please note that under RSA 482-A:10, II, the Council may not consider any ground that is not set forth in the request for reconsideration.


Filing an appeal or motion for reconsideration of the Order does not automatically relieve Thomas or Christine Fraser of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 482-A provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. DES will continue to monitor compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Carroll County Registry of Deeds so as to run with the land.


Harry T. Stewart, P.E., Director
Water Division


Michael P. Nolin, Commissioner
Department of Environmental Services

Certified Mail/RRR: 7004 0750 0001 2491 9205

cc: Gretchen R. Hamel, Legal Unit Administrator ✓
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
Public Information Officer, DES PIP Office
Ossipee Board of Selectmen
Ossipee Conservation Commission
Carroll County Registry of Deeds